

**House Committee on Energy and Commerce
Subcommittee on Health**

Messing with Success: How CMS' Attack on the Part D Program Will Increase Costs and Reduce Choices for Seniors

**Written Statement for the Record
Families USA
Ron Pollack, Executive Director**

February 26, 2014

Dear Chairman Pitts and Ranking Member Pallone,

On behalf of Families USA, thank you for the opportunity to submit this written statement for the record for the hearing entitled, *"Messing with Success: How CMS' Attack on the Part D Program Will Increase Costs and Reduce Choices for Seniors."*

We are concerned that, judging from the title of this hearing, the Committee has already determined that the proposed CMS rule will be detrimental to beneficiaries. We strongly disagree with this assessment. As discussed below, several elements in the proposed rule would improve Medicare Part D for beneficiaries and taxpayers. We believe that the Committee should ground its oversight of the Parts C and D programs in ensuring what's best for beneficiaries and the American taxpayer, and not in protecting particular industries.

Plan Consolidation

We support CMS's proposal to limit parent organizations to one sponsor contract per PDP region and to limit the number of prescription drug plans (PDPs) that can be offered by a plan sponsor to one basic and one enhanced plan per region. Limiting the number of plans to those with meaningful difference will make it easier for beneficiaries to make an informed choice. Evidence suggests that today beneficiaries are so overwhelmed by the number of plans that they often stay in their current plan, even though switching plans could save money both for themselves and Medicare. We also strongly support CMS's desire to prevent anti-competitive practices by which insurers segregate high-cost, low-income beneficiaries into particular plans. CMS also deserves commendation for seeking to limit the number of sponsor contracts, which will improve the reliability of the quality star rating system, thereby enhancing plan accountability.

Changes to Drug Pricing Rules

Reporting Negotiated Drug Prices: The proposed standardization of reporting negotiated drug prices will ensure that reported prices accurately reflect the agreed-upon prices between network pharmacies

and a PDP. Today, PDPs can obtain higher Medicare reimbursements by failing to report network pharmacy concessions in their negotiated price. The proposed change would both save Medicare dollars and improve beneficiaries' ability to accurately gauge plan costs via the online Medicare Plan Finder.

Preferred cost-sharing: We support CMS's proposal to codify requirements that preferred pharmacies, through preferred cost-sharing, actually save money for Medicare. Among other things, this would prevent plans from creating cost-sharing structures that drive consumers to mail order pharmacies costing Medicare more than non-preferred retail pharmacies.

Pharmacy rules: We believe the proposal to allow any willing pharmacy to participate in lower cost-sharing will benefit consumers by increasing beneficiary access to pharmacies and reducing beneficiary costs. We also strongly endorse the requirement that pharmacies in a preferred network must consistently charge preferred cost sharing and consistently bill no more than the ceiling price for all prescriptions. Beneficiaries have the right to a system that is predictable and understandable.

Strengthened plan oversight

CMS proposes a number of measures to improve oversight of Medicare's contracts with Medicare Advantage and Part D plan sponsors, including: requiring a minimum level of experience; increasing audit capacity; enhancing contract termination authority; and enforcing quantifiable plan quality improvement through the star rating metrics. These measures will help enforce consumer protections and enhance plan accountability.

Protected Classes of Drugs

We have concerns that the proposed changes to the rules governing protected classes of drugs need further refinement. In particular, CMS may be overly optimistic about the viability of the appeals system and current transition rules as a way to ensure beneficiaries' access to appropriate drugs. Health care providers need a great deal of education and support to learn how to assist beneficiaries navigating these systems before the systems can be relied on as a back-up means of ensuring access.

In summary, while there are elements in the CMS proposed rule that merit close consideration, many of the changes would benefit Medicare beneficiaries and taxpayers. We urge the committee to approach the proposed rule thoughtfully.

Thank you for the opportunity to submit this statement into the hearing record.

Sincerely,

A handwritten signature in black ink that reads "Ron Pollack". The signature is written in a cursive, flowing style.

Ronald F. Pollack
Executive Director